

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND**

DAWARI DAN-HARRY on behalf of )  
himself and all others so similarly situated, ) CA NO. 1:17-CV-136  
 )  
 )  
*Plaintiff,* )  
 )  
vs. )  
 )  
PNC BANK. N.A., )  
 )  
*Defendant.* )  
 )

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**PLAINTIFF'S MOTION FOR LEAVE TO SUBMIT SUPPLEMENTAL  
AUTHORITY IN FURTHER REPLY TO DEFENDANT'S MOTION TO DISMISS**

Pursuant to DRI LR 7(b)(3), Plaintiffs request leave of this Court to submit supplemental authority in further reply to Defendant's Motion to Dismiss. Plaintiffs request leave for the sole purpose of providing the Court notice of two recently issued decisions by this Honorable Court in Ferreira et al v. Ditech Financial LLC et al, CA# 1:17-cv-00115-M-LDA and Peralta v. U.S. Bank National Association, 1:17-cv-00263-M-PAS.

In Ferreira Rhode Island District Court Judge John J. McConnell, Jr. on July 10, 2017 denied a motion to dismiss on identical allegations as this case and held that "At the 12(b)(6) stage, following the appropriate standard of review of assuming all plausible facts in the complaint as true (and disregarding any extraneous evidence submitted that is out of the complaint), the Court finds that the Plaintiffs have alleged a cause of action for breach of contract under Paragraph 9(d) of the mortgage contract". In Peralta Judge McConnell on July 31, 2017 again denied a motion to dismiss on identical allegations as

this case and held that “the Plaintiff has set forth plausible allegations to support a breach of contract claim for violation of paragraph 9(d), through its failure to comply with HUD regulation 24 CFR 203.604(b)” These decisions by Judge McConnell not only confirms this Honorable Court’s agreement with the holdings Plaintiffs cite in their memorandum of law in support of their Opposition to Defendant’s Motion to Dismiss but also rejects the Defendant’s positions and arguments in response. The Plaintiffs respectfully request that this Court’s review of their Opposition to Defendant’s Motion to Dismiss include these most recent issued decisions by this Court.

Respectfully submitted,  
Plaintiffs,  
By their attorney,

/s/ Todd S. Dion, Esq.  
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**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on September 7, 2017.

/s/ Todd S. Dion